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GOVERNMENT GAZETTE

BOLETIM OFICIAL

GOVERNMENT OF GOA, DAMAN AND DIU

Law Department

Notification

The undermentioned rules made by the Court of the Judicial Commissioner, Goa, Daman and Diu, in exercise of its power under section 20 of the Goa, Daman and Diu (Judicial Commissioner's Court) Regulation 1963, are published for general information.

S. BALAKRISHNAN

Law Secretary

Panjim, 29th July, 1964.

Appeals under Section 116 A of the Representation of People Act, XLIII of 1951

Contents
of and
accompa-
niments
to appeal.

1. (i) The memorandum of appeal in all appeals filed under section 116A of the Representation of People Act, 1951, shall be signed by the appellant or his Advocate and presented to the Registrar of this Court. It shall set forth concisely and under distinct heads the grounds of objections to the decree appealed from, which shall be numbered consecutively.

(ii) In addition to the permanent residences and addresses of the respondents, the present addresses of the respondents of which service of the notice may be effected shall be stated in the memorandum of appeal. The statement in regard to the addresses of the respondents shall be supported by an affidavit.

(iii) The memorandum of appeal shall be accompanied, in addition to the items mentioned below, by a copy of the judgment or order of the Election Tribunal, which is appealed from, the treasury receipt in regard to the deposit of Rs. 500/- made by the appellant under section 119A of the Representation of People Act, 1951 and two typed copies of the memorandum of appeal.

Process
fees.

2. The memorandum of appeal, in addition to the Court fee stamp prescribed therefor, shall bear court-fee stamp for process fees for service of notices on all the respondents at the rate of Rs. 2-50 Ps. for each respondent to be served.

Paper books
and supply
of copies
thereof for
use of Court
and respon-
dents.

3. (i) The memorandum of appeal shall, unless otherwise ordered by the Court, be accompanied by as many copies of the paper-book of the appeal as there are respondents in addition to two — copies for the use of the Court.

(ii) The paper book shall be duly paged, indexed and shall contain copies or translations if the papers are in English, and translations, if the papers are in any other language, of the following papers in the order mentioned below:

- (1) Index;
- (2) Memorandum of appeal;
- (3) Judgment or order under appeal;
- (4) The Election Petition;
- (5) Written statements;
- (6) Supplementary statements, and statements of the parties or their pleaders.
- (7) Oral evidence recorded in the case;
- (8) Such other documents or papers as the appellant wishes to refer to.

(iii) Any translations included in the paper-book shall be certified to be true translations by the Advocate or the appellant or shall be supported by an affidavit of the appellant affirming that the said translations are true.

Office
objections
and removal
thereof.

4. (i) The Office shall examine the appeal for office objections immediately on its being filed, and the examination shall be completed not later than the day next after the filing of the appeal.

(ii) The Office shall immediately after the examination of the appeal is completed, affix on a special Notice Board, a notice specifying the office objections to be

removed, and an entry shall be made prominently on the presentation form of the date on which such notice has been affixed.

(iii) The Advocate for the appellant, or the appellant if he appears in person, shall remove all the office objections within seven days of the date of the notification of the office objections under sub-rule (ii) above, failing which the appeal shall immediately be placed for orders before the Court.

Registration of appeal and issue of notice.

5. (i) As soon as all the office objections have been removed, the appeal shall be numbered, and the Office shall immediately prepare and issue notices to the respondents in the appeal.

(ii) A copy of the paper-book shall be served upon each respondent along with the notice of the appeal.

(iii) The notice shall intimate to each respondent that, if he desires to do so, he should file a supplementary paper-book, duly paged and indexed, of such papers as are not included in the paper-book filed by the appellant within 15 days of the date of service or such other time as the Court may direct.

(iv) The date of hearing of the appeal shall be stated to be on or after 15 days of the date of service of the notice or such other time as the Court may fix in that behalf from the date of the issue of the notice by the Office.

(v) The notice shall be served in the manner prescribed for service of notices in civil cases.

(vi) The notice shall be marked «Very Urgent», and shall be accompanied by a letter to the Officer directed to effect service of the notices, to serve the same immediately.

Writ calling for record and proceedings.

6. (i) As soon as the appeal is numbered, the Office shall call for the record and proceedings from the Court where such records are deposited under section 103 of the Representation of People Act, 1951.

(ii) The writ calling for the record and proceedings shall be marked «immediate», and the Court shall be directed to send the record and proceedings to the Judicial Commissioner's Court immediately.

7. (i) After the notices are served and the date prescribed for the filing of the supplementary paper-books by the respondents is over, the appeal shall be notified in the usual way.

Costs of appeal at discretion of Court.

8. (i) The costs of the appeal shall be at the discretion of the Court, and the Court may award such quantified or lump sum costs to any party as it may deem fit, having regard to the circumstances of the case.

(ii) The Court may direct that the costs awarded to the Respondents or any of

them should be paid out of the security deposit made by the appellant under section 119A of the Representation of People Act, 1951, and may pass such other orders regarding the disposal of the security deposit as it may deem fit.

Decree in appeal.

9. (i) The appellate decree shall be prepared and completed within 15 days from the date of the decision.

(ii) A copy of the appellate decree shall, as soon as the decree is ready, be sent free of cost to the Secretary of the Election Commission, for information and necessary action.

Notification

The undermentioned rules made by the Court of the Judicial Commissioner, Goa, Daman and Diu, in exercise of its power under section 20 of the Goa, Daman and Diu (Judicial Commissioner's Court) Regulation 1963, are published for general information.

S. BALAKRISHNAN
Law Secretary

Panjim, 29th July, 1964.

Rules regarding Copies and Copying Fees

The following are the rules under which copies of papers may be granted:—

(1) A party to any proceeding may, on application on the prescribed Court fee, made to the Court having the custody of the record, obtain a certified copy of any judgment, order, deposition, memorandum of evidence, or any document filed in the said proceeding.

The application shall state whether the copy applied for is required for private use or otherwise.

(2) Applications for copies by persons other than parties to the proceeding shall be supported by an affidavit stating the purpose for which the copies are sought.

(3) On receipt of an application, the Office shall immediately scrutinize it with a view to ascertaining the correct number of the proceeding, names of the parties, description of the document copy of which is applied for, and whether the document is available for copying.

(4) The Office shall estimate the costs of the copies before the copying work is undertaken. The estimate should, as far as possible, cover all probable costs of the copies.

(5) The applicant shall be called upon to deposit the estimated costs of the copies applied for, and make up other deficiencies then and there only, if his presence is available in the office. In other cases the orders of the Presiding Judge shall be obtained requiring the applicant to supply the deficiencies within a specified period of time, not exceeding ten days from the receipt of the intimation.

(6) When the description of the document given in the application is incorrect or deficient, and it is in consequence, necessary for the Officer to search his records in order to find it, a fee at the rate of one rupee for each year of which the records are

searched, shall be payable by the applicant for such search, whether the document be found or not, and whether the copy for which he applies, on examination of the said document, be granted or not.

(7) As soon as the Office finds that the application is complete in all respects, it shall be dealt with by the «escrivão» (Clerk of the Court) who may either grant the application or refuse it for reasons to be recorded thereon, or pass such other orders as he may deem just.

In case of refusal, and the grounds for refusal, shall be communicated to the applicant in writing.

(8) Copies shall be furnished within ten days of the presentation or receipt of the application, if the application is complete on that date, unless further delay is unavoidable, in which case the cause shall be endorsed on the copy. In other cases, the period of ten days shall be computed from the date on which the application is completed in all respects.

(9) A certified copy of a part only of any document on record whether exhibited or not, may at the discretion of the Presiding Judge, be given. No copy, however, shall be given of part of a judgment or of an order recorded on the application without a copy of the application itself.

(10) Copies of any document on the record of a proceeding prepared by a party, may at the discretion of the Presiding Judge of the Court, be certified as true copies upon an application made in that behalf:

Provided that the copies sought to be certified are typed neatly and on good paper, and are otherwise in conformity with the instructions laid down in rule hereof; and

Provided further that the applicant pays the copying fees herein prescribed for certified copies prescribed in the Office.

(11) The following endorsement shall be made on every copy of the document:—

The date on which the copy was applied for.
The date on which the application was completed.
The date on which the copy was ready for delivery.
The date on which it was delivered or posted.

To prevent unauthorised alterations being made, the date shall be written in letters in distinct handwriting and the endorsement should be signed by some authorised Officer of the Court on the date on which it was made.

(12) The following shall be the rates of copying and comparing fees—

- (i) For copying documents 25 Ps. for every 100 words or fraction thereof.
- (ii) For comparing copies, a fee at the rate of 10 Ps. per 100 words or fraction thereof shall be charged.
- (iii) For copying a map or plan, such fee not exceeding Rs. 15 and not less than Re. 1 as the Presiding Judge may determine.

(13) On extra payment of—

(a) a Court fee stamp of 40 Ps. upon the application; and

(b) half the fees ordinarily charged as prescribed in sub-paragraph (12) above copies shall be furnished, if possible, within 48 hours, and in any case within 96 hours, provided that the document of

which the copy is sought is in existence and available amongst the records of the Court to which the application is made.

In computing the above period of 48 hours and 96 hours, every Sunday and Holiday on which the Court is closed shall be excluded.

(14) Where different persons apply for single copies of the same document, each should be supplied, at full rates, with an original, not a carbon copy. But if one person applies for more than one copy, he shall on request, be given carbon copies (in addition to the original copy at the full rate) up to a maximum of five and should be charged $\frac{1}{4}$ th of the fee prescribed for a single copy with a minimum of 25 Ps.

(15) Court fees should be recovered at the time of furnishing copies and not when the copies are filed in Courts.

Before the aforesaid copies of documents are furnished to the parties concerned, a statement should be obtained from them as to whether the copies are required for private use or otherwise; and if the parties state that the copies are required for private use, then in accordance with the exemption, if any, granted by Government, no Court fee should be levied on such copies. In case, the aforesaid copies are produced later on in any Court, then Court fee as required under the afore-foing provisions should be levied before they are received.

(16) In case the estimated deposit falls short of the charges which would have to be recovered in respect of the copies, the balance shall be recovered from the parties or lawyer concerned before the copies are delivered personally to them. In case the applicant applies for such copies by post or where the copies are required to be sent through the agency of the post, such balance may be recovered by sending copies by value payable post.

Note:— A value payable parcel can only be sent for transmission to Post Office which is also a Money Order Post Office and the amount to be recovered must not be less than 26 Ps.

(17) In cases where the applicant refuses to pay the balance of the amount of the charges due from him or to accept the V. P. P. the Court shall recover the amount by attachment and sale of the movable property of the applicant.

(18) In every case where an applicant for certified copies pays a deposit, he should be granted a receipt in the prescribed form.

(19) All copies should be correct, and typed or written in a clear hand, with good ink, on stout paper.

(20) All copies shall be dated, subscribed and sealed in the manner prescribed by section 76 of the Indian Evidence Act.

The «escrivão» (Clerk of the Court) is the Officer appointed in every Court to certify and deliver copies of all civil records within the meaning of section 76 of the Indian Evidence Act.

Translation

(21) Translations should be prepared by an Officer of the Court qualified for the purpose, or by a translator appointed by the Presiding Officer of the Court.

(22) (i) Fees for translating documents should be charged at a uniform rate of 75 Ps. per 100 words.

(ii) If such translations are made by a member of the establishment outside office hours, or by any person other than the member of the staff specially appointed for the purpose, the fees recovered in respect of such translation shall be paid to him.

The above rules shall apply mutatis mutandis to Criminal Courts and in addition

(23) No fee shall be charged for any copy which the person applying for is entitled to receive gratis.

Supply of copies of Judgements or other information to different authorities

(24) The following rules on the subject of supplying information or copies of judgements to various authorities have been grouped together for easier reference:—

Military, Naval and Air Force

(1) (i) For notice to Commanding Officer in cases where a person subject to Military, Naval and Air force Law appears before a Magistrate;

(ii) When any person serving in the Military Department is convicted in a criminal Court, such Court shall inform the Officer Commanding the Regiment or Corps to which the convict belongs.

(iii) Whenever a Military pensioner is convicted and sentenced to a term of imprisonment by a Criminal Court, a copy of the judgment in the case should in future be forwarded without delay to the Deputy Controller of Military Accounts (Pensions), Allahabad. The copy should be supplied free of charge and the place from where the pensioner last drew his pension should be stated in the forwarding letter.

(iv) When a reservist of the Indian Army is sentenced by a criminal Court to imprisonment for any term exceeding three months, the facts of the case should be reported, without delay, by such Court to the Commandant of the appropriate Regimental centre.

(v) All criminal Courts shall in future supply to the Defence Department (Army Branch) of the Government of India copies of judgements in all cases in which Commissioned Officers are tried by them for criminal offences.

Government servant

(2) Whenever a Government servant is convicted of any offence, the Court shall send free of charge to the Head of Department concerned a copy of judgment, and whenever such a servant is acquitted or discharged, the Court shall supply free of charge a copy of the judgment on the application of the Head of the Department.

Medical Practitioners

(3) Whenever a registered Medical Practitioner is convicted of a cognizable offence, or is censured by it in respect of his professional conduct or character, the Court concerned should supply a copy of the judgment free of cost to the Medical Council.

Legal Practitioners

(4) Similarly in the case of an Advocate or Attorney of the Court, the Court concerned should send a copy to the Registrar, Judicial Commissioner's Court.

Judgements in Sessions Cases

(5) Under section 373 Cr. P. C. the Court of Sessions shall send to the District Magistrate a copy of its finding and sentence (if any). The Court of Session may also send to the Committing Magistrate or District Magistrate, should either of them require it, a copy of the judgement.

Appeals against Acquittals

(6) When a Public Prosecutor or a Police Prosecutor applies for a certified copy of a judgment for the purpose of an appeal or an application in revision, the same should be supplied free of cost.

Notification

In exercise of the powers conferred by Section 34 of the Police Act, 1861 as in force in the Union Territory of Goa, Daman and Diu. The Lieutenant Governor is hereby pleased to extend the provisions of the said Section 34 to the whole of the Territory of Goa, Daman and Diu, with effect from the 13th of August 1964.

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

S. Balakrishnan, Law Secretary.

Panjim, 3rd August, 1964.

Notification

The following Ordinance of Ministry of Law regarding Companies (Amendment) Ordinance, 1964 No. 2 of 1964 is hereby published for the general information of public.

S. Balakrishnan, Law Secretary.

Panjim, 7th August, 1964.

GOVERNMENT OF INDIA

MINISTRY OF LAW

(Legislative Department)

New Delhi, 5th July, 1964/Asadha 14, 1886 (Saka)

THE COMPANIES (AMENDMENT) ORDINANCE, 1964

No. 2 of 1964

Promulgated by the President in the Fifteenth Year of the Republic of India

An Ordinance further to amend the Companies Act, 1956.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance: —

Short title and commencement.

1. (1) This Ordinance may be called the Companies (Amendment) Ordinance, 1964.

(2) It shall come into force at once.

Insertion of new sub-heading and section after section 635A of Act I of 1956.

2. After section 635A of the Companies Act, 1956, the following sub-heading and section shall be inserted, namely: —

"Temporary Protection of Employees"

Protection of employees during investigation by Inspector or pendency of proceeding before Tribunal in certain cases.

635B. (1) If —

(a) during the course of any investigation of the affairs and other matters of or relating to a company, body or person under section 235, section 237 or section 239 or of the membership and other matters of or relating to a company, or the ownership of shares in or debentures of a company or body corporate, or the affairs and other matters of or relating to a company, body or person, under section 247, section 248 or section 249; or

(b) during the pendency of any proceeding against any person concerned in the conduct and management of the affairs of a company under Chapter IVA of Part VI,

such company, body or person proposes —

(i) to discharge, or

(ii) to punish, whether by dismissal, removal, reduction in rank or otherwise,

any employee, the company, body or person, as the case may be, shall send by post to the Company Law Board previous intimation in writing of the action proposed against the employee and if the Company Law Board has any objection to

the action proposed, it shall send by post notice thereof in writing to the company, body or person concerned.

(2) If the company, body or person concerned does not receive within thirty days of the sending of the previous intimation of the action proposed against the employee, any notice of the objection from the Company Law Board, then and only then, the company, body or person concerned may proceed to take against the employee the action proposed.

(3) If the company, body or person concerned is dissatisfied with the objection raised by the Company Law Board, it may, within thirty days of the receipt of the notice of the objection, prefer an appeal to the Tribunal in the prescribed manner and on payment of the prescribed fee.

(4) The decision of the Tribunal on such appeal shall be final and be binding on the Company Law Board and on the company, body or person concerned.

(5) For the removal of doubt, it is hereby declared that the provisions of this section shall have effect without prejudice to the provisions of any other law for the time being in force."

S. RADHAKRISHNAN,

President.

R. C. S. SARKAR,

Secy. to the Govt. of India.

Corrigendum

In the Goa, Daman and Diu Agricultural Tenancy Bill, 1964 (Bill no. 7 of 1964), published in the Government Gazette no. 31, series I, dated 30th July 1964 (supplement), on page 228, section 12, line 8, insert «and» between the words «order» and «the Mamlatdar»; on page 231, section 23, clause (2) sub-clause (ii), the last three lines, where there has been a transposition of one line, should be read as «harvest in the presence of the Gram Sevak or the Escrivao or any other respectable person; and».